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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,239	11/21/2001	Pekka Horttanainen	991.1164	1930
21831	7590	01/07/2004	EXAMINER	
STEINBERG & RASKIN, P.C. 1140 AVENUE OF THE AMERICAS, 15th FLOOR NEW YORK, NY 10036-5803			LEO, LEONARD R	
			ART UNIT	PAPER NUMBER

3753

DATE MAILED: 01/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/990,239

Applicant(s)

HORTTANAINEN ET AL.

Examiner

Leonard R. Leo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s).

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9-11.                      6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

The amendment filed on September 24, 2003 has been entered. Claims 15-18 are cancelled, and claims 19-32 are pending.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-27 and 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oy (GB 2,349,688) in view of Baker.

Oy ('688) discloses all the claimed limitations except a control device in each side chamber.

Baker discloses a supply air terminal device (Figure 7) comprising a housing 32; a heat exchanger 22; nozzles 25; side chamber 34 and control device 31 for the purpose of varying the amount of mixed air.

Since Oy ('688) and Baker are both from the same field of endeavor and/or analogous art, the purpose disclosed by Baker would have been recognized in the pertinent art of Oy ('688).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Oy ('688) control device for the purpose of varying the amount of mixed air as recognized by Baker. Although the device of Baker discloses a single side chamber, employing a control device in each side chamber of Oy ('688), since it has been

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held that mere duplication of the essential working parts of a device involves only routine skill in the art. *In re Harza*, 274F.2d 669, 124 USPQ 378 (CCPA 1960).

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oy ('688) in view of Baker as applied to claims 19-27 and 29-32 above, and further in view of Chandler.

The combined teachings of Oy ('688) and Baker lacks an eccentric actuator.

Chandler discloses a supply air terminal device (Figure 3) comprising a housing 37; a heat exchanger 99; nozzles 104; side chamber 100 and unlabelled control device (in side chamber 90) having an eccentric actuator for the purpose of providing rotational motion to control the damper 96.

Since Oy ('688) and Chandler are both from the same field of endeavor and/or analogous art, the purpose disclosed by Chandler would have been recognized in the pertinent art of Oy ('688).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Oy ('688) an eccentric actuator for the purpose of providing rotational motion to control the damper as recognized by Chandler. Clearly, the rotational and reciprocal actuators are mere alternates of one another and the substitution requires only routine skill in the art.

### ***Response to Arguments***

The claim objection is withdrawn.

The rejection under 35 USC 112, second paragraph is withdrawn.

The anticipatory rejection in view of Chandler is withdrawn.

No further comments are deemed necessary at this time.

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***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry of a general nature, relating to the status of this application or clerical nature (i.e. missing or incomplete references, missing or incomplete Office actions or forms) should be directed to the Technology Center 3700 Customer Service whose telephone number is (703) 306-5648. Status of the application may also be obtained from the Internet: <http://pair.uspto.gov/cgi-bin/final/home.pl>

Any inquiry concerning this Office action should be directed to Leonard R. Leo whose telephone number is (703) 308-2611.



LEONARD R. LEO  
PRIMARY EXAMINER  
ART UNIT 3753

December 29, 2003